

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter

of

Index No.

1-08-01789

SIPC V. MADOFF,

Debtor.

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July 7, 2009

United States Custom House

One Bowling Green

New York, New York 10004

Trustee's Third Motion to Further Extend the Time
Which The Trustee May Assume Executory Contract, et al.

B E F O R E:

HON. BURTON R. LIFLAND,

U.S. Bankruptcy Judge

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A P P E A R A N C E S:

BAKER HOSTETLER, LLP

Attorneys for Irving H. Picard, SIPA Trustee

45 Rockefeller Plaza

New York, New York 10017

BY: ALISSA M. NANN, ESQ.

-and-

MARC E. HIRSCHFIELD, ESQ.

1 Proceedings

2 THE COURT: SIPC v. Madoff.

3 MS. NANN: Good morning, Your Honor.

4 Alissa Nann from the law firm of Baker
5 Hostetler on behalf of the Trustee.

6 THE COURT: Good morning.

7 MS. NANN: Your Honor, we are here on two
8 motions that are on the agenda for this morning, and with
9 your permission I would like to start with some general
10 background to apply that applies to both.

11 As you are aware, Your Honor, the Trustee
12 has requested several extensions to its time to assume or
13 reject certain contracts and leases. The last time we
14 were before Your Honor on this issue we requested an
15 extension through June 30, which you granted.

16 On June 26, we filed the two motions that
17 are before you today and requested a bridge order be
18 entered to extend the time through today's hearing date
19 which was on June 29. I would like to start are with the
20 motion listed as number 2 on the agenda, which is the
21 motion to assume an executory contract for a Xerox copy
22 machine.

23 The copy machine itself is located on the
24 17th floor of the Debtor's former office at 885 Third
25 Avenue.

1 As Your Honor is aware, I believe the FBI
2 has been using the 17th floor as sort of their base for the
3 investigation into the activities of Madoff and BLMIS, and
4 they notified the Trustee that they intend to continue to
5 use that space as a means for investigation and they
6 requested the continued use of the copy machine.

7 The Trustee has agreed to assume the
8 contract for the copy machine, the lease of which runs
9 through July of 2010, and the FBI at this time they intend
10 to use that space and they won't be a gap in the time for
11 the copy machine.

12 SIPA has been informed of the intention to
13 assume and they are paying for all administrative. We
14 received no opposition to the motion. We request that it
15 be granted.

16 THE COURT: Does anyone else want to be
17 heard?

18 Hearing no one, your request is granted.

19 MS. NANN: I have disks for both. Should
20 I wait to hand them up?

21 THE COURT: You could wait unless you need
22 the exercise.

23 MS. NANN: I think I am okay with it this
24 morning, Your Honor.

25 The second item which is listed as number 1

1 on the agenda is a motion to further extend the time to
2 assume or reject certain leases and contracts through July
3 31, 2009. They are limited to contracts, to one series of
4 contracts and leases that are listed on the schedule to the
5 motion. The contracts are all with Verizon and they are
6 for services for phone, internet and conferencing. And
7 the lease is for telephone equipment that is leased through
8 CIT.

9 The extension was requested by the
10 purchaser of the Debtor's market-making business, its name
11 is Serge Investing (phonetic). They are still engaged in
12 discussions with service providers. They need some
13 additional time to make a business decision as to whether
14 they should request the Trustee to assume the contracts and
15 leases or assign them to Serge or they would like us to
16 reject them and negotiate their own contracts and leases.

17 The Court should note that Serge is going
18 to be paying for both the leases and the contracts through
19 the date of the extension request and they are also paying
20 the Trustee's legal fees in connection with the request for
21 this extension.

22 We have received no opposition to this
23 motion and we are requesting that it be granted.

24 THE COURT: Your application is granted.

25 MS. NANN: Thank you, Your Honor.

1 May I approach?

2 THE COURT: Sure. As I recall, there is
3 an operating stipulation, Mr. Hirschfield, with the
4 Attorney General that involves Mr. Merkin.

5 MR. HIRSCHFIELD: Yes, there is, Your
6 Honor.

7 THE COURT: And there is, according to the
8 media today, activities with respect to the Attorney
9 General, and in what I think is a parallel lawsuit; is that
10 correct?

11 MR. HIRSCHFIELD: I'm not sure what you
12 are referring to. I have not yet read that article if you
13 are referring to the artwork, is that what you are
14 referring to?

15 THE COURT: Well, the artwork produced a
16 certain amount of revenue which also comes under the
17 stipulation. But the lawsuit is also directed against the
18 fund and Merkin as it is with you.

19 MR. HIRSCHFIELD: Yes.

20 THE COURT: And that is subject to a motion
21 to dismiss.

22 MR. HIRSCHFIELD: Yes.

23 THE COURT: And it is somewhat parallel to
24 the litigation pending before me. I am not aware there is
25 any motion to dismiss in this case.

1 MR. HIRSCHFIELD: Their time to answer in
2 the lawsuit we brought against Merkin and his fund has not
3 yet run. We have been talking to defendants' counsel as
4 well as the AG's office, and the two receivers originally
5 appointed. I believe the receivers have requested some
6 additional time to respond, given the fact that the
7 receiver for Ascot was just appointed last week. So I
8 thought those discussions are ongoing and we will see where
9 they lead.

10 THE COURT: I see. I have approved the
11 two orders.

12 MS. NANN: Thank you, Your Honor.

13 MR. HIRSCHFIELD: Thank you, Your Honor.

14 THE COURT: Let me just add that I have
15 approved the order. Thank you.

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C E R T I F I C A T E .

STATE OF NEW YORK }
 } ss.:
COUNTY OF NEW YORK }

I, MINDY CORCORAN, a Shorthand Reporter
and Notary Public within and for the State of New York, do
hereby certify:

That I reported the proceedings in the
within entitled matter, and that the within transcript is a
true record of such proceedings.

I further certify that I am not related, by
blood or marriage, to any of the parties in this matter and
that I am in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 7th day of July, 2009.

MINDY CORCORAN